

California Regional Water Quality Control Board
Santa Ana Region

Order No. R8-2006-0033

Waste Discharge Requirements and Clean Water Act Section 401 Water Quality
Standards Certification

for

Pinnacle Communities

Quincy Channel Hydro-modifications Associated with the Development of Single Family
Residential Tract 31269 and Tract 31424, City of Moreno Valley, Riverside County

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), finds that:

1. Pinnacle Communities (hereinafter, discharger) proposes to develop Tract 31269 and Tract 31424, located along the east side of Quincy Channel between Eucalyptus and Cottonwood Avenues in the City of Moreno Valley. The Tracts consist of approximately 180 single-family residential lots and two open space lots. As part of the conditions of approval, the City of Moreno Valley has required the discharger to modify 2,605 linear feet of the adjacent eastern bank of Quincy Channel between Cottonwood and Eucalyptus Avenues and to widen Cottonwood Avenue.
2. Quincy Channel consists of an ephemeral, sandy, active channel within a larger incised earthen channel. The larger incised channel is largely vegetated with mule fat, native and non-native grasses, native shrubs, and a few large trees. The Corps' authority to regulate discharges of dredge and fill is generally limited to the sandy active channel.
3. The proposed hydro-modification of Quincy Channel involves reconstructing the incised banks to a concrete-panel bank with a slope of 1.5 to 1. The channel bottom will remain earthen and vegetated. During construction, the channel will be excavated at a maximum slope of 1:1, approximately 8 feet below the existing channel grade. The channel hydro-modification will widen Quincy Channel and create an additional 0.13 acres of waters of the State and United States. The Riverside County Flood Control and Water Conservation District will maintain a mowed strip, 6-feet wide, at the toe of the concrete-panel bank for the purpose of inspection and maintenance. Vegetation in this strip will be limited to herbaceous plants; woody vegetation will be removed.
4. As the result of the proposed widening of Cottonwood Avenue, the existing Quincy Channel culvert crossing will need to be replaced. This will result in the construction of culverts that are longer by 30 feet on the north side and 25 feet on

- the south side. New headwalls and grouted riprap energy dissipaters will be constructed at each end of the culverts. The energy dissipaters will extend 50 feet from each end of the new culverts.
5. The proposed hydro-modification and road widening will result in the discharge of dredge or fill to a water of the State that is subject to the Corps' Clean Water Act Section 404 Permits. The discharger is required to provide a Clean Water Act Section 401 Water Quality Standards Certification (Certification) to the Corps.
 6. The discharger has proposed to mitigate the discharge of fill to Quincy Channel through re-vegetation of temporarily impacted areas and vegetation of the created waters of the State and United States. The proposed Order requires the discharger to proceed with the proposed mitigation.
 7. The City of Moreno Valley adopted negative declarations for Tract 31269 and Tract 31424 on November 24, 2003 and April 5, 2004, respectively. The direct and cumulative impacts of the proposed project on beneficial uses, recognized by the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan), are addressed by mitigation required by this Order.
 8. Upon review of biological reports provided by the discharger and a site visit conducted on April 5, 2005, Regional Board staff identified the following as existing or potential beneficial uses for the affected reach of Quincy Channel:
 - a. Wildlife habitat (WILD)
 - b. Water-Contact Recreation (REC-1)
 - c. Non-Contact Water Recreation (REC-2)
 - d. Groundwater Recharge (GWR)
 9. The discharger submitted an application for WDRs on February 27, 2006. This Order regulates the discharge of fill material to waters of the State to address project-related impacts to beneficial uses.
 10. The proposed discharge was previously authorized under Order No. R8-2005-0087, issued to Highpointe Communities, Inc. A Certification for the project was issued to Highpointe Communities, Inc. concurrently.
 11. The Regional Board has considered antidegradation pursuant to State Board Resolution No. 68-16 and finds that the discharge is consistent with those provisions.
 12. The Board has notified the discharger and other interested agencies and persons of its intent to prescribe waste discharge requirements for the discharge and has provided them with an opportunity for public hearing and opportunity to submit their written views and recommendations.

13. The Board, through publication of a public notice, solicited and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED that the discharger, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following:

A. DISCHARGE SPECIFICATIONS:

1. No activities associated with the project shall cause or threaten to cause a nuisance or pollution as defined in Section 13050 of the California Water Code.
2. The discharge of any substance in concentrations toxic to animal or plant life is prohibited.
3. The groundwater in the vicinity of the project shall not be degraded as a result of the project activities or placement of fill for the project.
4. The discharge of fill materials associated with the discharge requested herein for the Quincy Channel shall be limited to inert materials, as defined in Section 20230, Division 2, Title 27.

B. DISCHARGE PROHIBITIONS:

1. The direct discharge of wastes, including rubbish, refuse, bark, sawdust, or other solid wastes into surface waters or at any place where they would contact or where they would be eventually transported to surface waters, including flood plains, except as authorized by these waste discharge requirements, is prohibited.
2. The discharge of floating oil or other floating materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
3. The discharge of silt, sand, clay, or other earthen materials from any activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
4. Discharges to surface waters of wastes or pollutants that are not otherwise regulated by a separate National Pollutant Discharge Elimination System (NPDES) permit, are prohibited.

C. PROVISIONS:

1. The discharger shall re-vegetate temporarily impacted areas of Quincy Channel and vegetate the on-site created channel bottom using appropriate native species. The initial planting shall occur not later than October 31st following completion of excavation of Quincy Channel.

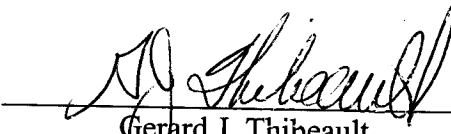
2. Site disturbance in Quincy Channel shall be limited to the minimum necessary to complete the hydro-modification. Native woody vegetation shall be avoided to the maximum extent practical.
3. The discharger shall maintain a copy of this Order at the site so that it is available to site operating personnel at all times. Key operating personnel shall be familiar with its content.
4. The discharger shall remove from the site any waste or fill material found to contain substances that may have a deleterious effect on water quality, and dispose of unacceptable wastes in a manner acceptable to the Executive Officer.
5. The discharger must comply with all of the requirements of this Order. Any violation of this Order constitutes a violation of the California Water Code and may constitute a violation of the Clean Water Act and its regulations, and is grounds for enforcement action, termination of this Order, revocation and re-issuance of this Order, denial of an application for re-issuance of this Order; or a combination thereof.
6. The discharger shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.
7. The provisions of this Order are severable, and if any provision of this Order, or the application of any provisions of this Order to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Order shall not be affected thereby.
8. The filing of a request by the discharger for modification, revocation and re-issuance, or termination of this Order or a notification of planned changes or anticipated noncompliance does not stay any requirements of this Order.
9. The requirements prescribed herein do not authorize the commission of any act causing injury to the property of another, nor protect the discharger from liabilities under federal, state, or local laws, nor guarantee the discharger a capacity right in the receiving waters.
10. Order No. R8-2005-0087 issued to Highpointe Communities, Inc. is hereby rescinded and the Certification is transferred to Pinnacle Communities.
11. This Order constitutes a Clean Water Act Section 401 Water Quality Standards Certification. The Regional Board hereby certifies that the development of Tract 31269 and Tract 31424 and the associated hydro-modification of Quincy Channel will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307

(Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law.

12. Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality standards certification actions:
 - a. Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
 - b. Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
 - c. Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.
13. This Order does not convey any property rights of any sort, or any exclusive privilege.
14. This Order is not transferable to any person except after notice to, and approval by, the Executive Officer. The Regional Board may require modification or revocation and re-issuance of this Order to change the name of the discharger.
15. In the event of any change in control or ownership of land or waste discharge facility presently owned or controlled by the discharger, the discharger shall notify the succeeding owner or operator of the existence of this Order by letter, a copy of which shall be forwarded to the Regional Board.
16. The Regional Board and other authorized representatives shall be allowed:
 - a. Entry upon premises where a regulated facility or activity is located or conducted, or where records are kept under the requirements of this Order;
 - b. Access to copy any records that are kept under the requirements of this Order;
 - c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and

- d. To photograph, sample and monitor for the purpose of assuring compliance with this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on April 21, 2006.



Gerard J. Thibeault
Executive Officer